

1 THE HONORABLE JOHN C. COUGHENOUR  
2  
3  
4  
5  
6

7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 PORT OF OLYMPIA,

11 Plaintiff,

12 v.

13 M/V THE DREAM f/k/a EVERGREEN  
14 STATE and JONES GLOBAL  
15 INVESTMENT, LLC,

16 Defendants.

CASE NO. C20-5789-JCC

ORDER

17 This matter comes before the Court on Plaintiff's motion for an order of default, default  
18 judgment *in rem*, and order to sell the Vessel (Dkt. No. 11). Having thoroughly considered the  
19 briefing and the relevant record, the Court FINDS as follows:

20 1. The Court has admiralty jurisdiction over this action under 28 U.S.C. § 1333;  
21 2. The Court has *in rem* jurisdiction over M/V THE DREAM (f/k/a EVERGREEN  
22 STATE) ("the Vessel") because the Vessel is located within the Western District of  
23 Washington, was arrested pursuant to maritime process, and the warrant was  
24 successfully served;  
25 3. Plaintiff has complied with its notice and service requirements under LAR 125 and  
26 130 by arresting the Vessel, (Dkt. No. 14), publishing notice of the arrest of the  
Vessel, (Dkt. No. 13, 13-3), and delivering notice of arrest to all known interested

1 parties, (Dkt. No. 13, 13-1, 13-4);

2 4. Under Supp. Adm. R. C(6)(a)(i)(A), more than 14 days have passed since the arrest  
3 and notice were published, and no person has filed a verified statement of right  
4 asserting any right of possession or ownership interest in the Vessel, (Dkt. No. 13 at  
5 4);

6 5. The Vessel and all persons who may claim a right or interest in the Vessel, having  
7 failed to file an answer or statement of right or interest, are in default;

8 6. Plaintiff submitted declarations and documentation showing that it has a valid  
9 maritime lien against the Vessel under 46 U.S.C. § 31342 for wharfage in the amount  
10 of \$88,914.12, (Dkt. Nos. 12, 12-1, 12-2);

11 7. The factors set forth in *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986),  
12 weigh in favor of granting a default judgment; and

13 8. Plaintiff submitted evidence that it continues to accrue significant custodial fees  
14 associated with keeping the vessel. (Dkt. No. 12 at 4.) The expense of keeping the  
15 Vessel is excessive under Supp. Adm. R. E(9).

16 Accordingly, the Court GRANTS Plaintiff's motion for default judgment (Dkt. No. 11)  
17 and ORDERS:

18 1. Plaintiff is AWARDED judgment against the Vessel, her engines, and appurtenances,  
19 etc. in the amount of \$88,914.12;

20 2. Plaintiff is entitled to recover *custodia legis* costs from the proceeds of the sale, to be  
21 presented by way of a cost bill filed following the sale of the Vessel when the  
22 *custodia legis* costs are set;

23 3. Plaintiff shall recover the amount of the judgment and its costs from the foreclosure  
24 of its maritime lien against the Vessel, which the Court orders be accomplished  
25 through a public sale to be conducted by the U.S. Marshal pursuant to LAR 145. The  
26 Marshal is authorized to conduct the sale virtually, via Zoom or another appropriate

1 virtual platform, in light of the ongoing COVID-19 pandemic; and  
2 4. The Court shall retain jurisdiction of this action through the completion of the sale of  
3 the Vessel and any related proceedings.

4 DATED this 7th day of October 2020.

5   
6  
7

8 John C. Coughenour  
9 UNITED STATES DISTRICT JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26